

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ESTATE OF JOHN CARAN, DECEASED

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1667

Decision No. CU -6149

Counsel for claimant:

Ganim, Ganim & Ganim  
By Davis W. Ganim, Esq.

Appeal and objections from a Proposed Decision entered April 7, 1971.  
Oral hearing requested, and held October 13, 1971.

FINAL DECISION

The Commission issued its Proposed Decision in this matter on April 7, 1971, certifying a loss in the amount of \$29,670.00 to the ESTATE OF JOHN CARAN, DECEASED, for the decedent's one-half interest in a residence, personalty, inventory and accounts receivable. So much of the claim as was based on a promissory note and cash was denied for lack of substantiating evidence.

Objections were entered and an oral hearing requested which was held on October 13, 1971. At that time the Commission heard argument from counsel and received testimony from the decedent's widow, son, and Frank Daley.

On the basis of this record the Commission now finds that the decedent and his spouse were owed the amount of \$15,000.00 by Cia. Cafe Daley, S.A., a Cuban corporation which the Commission finds was intervened, nationalized or otherwise taken by the Government of Cuba on September 28, 1960. The Commission has held that debts of nationalized enterprises are within the scope of Title V of the Act. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].) Accordingly, the Commission finds that the decedent suffered a loss in the amount of \$7,500.00 in this respect.

The Commission has considered the record and testimony concerning the \$25,000.00 assertedly left in Cuba in about June, 1961 by the decedent. However, the record does not establish that these funds were taken by the Government of Cuba. Moreover, in August, 1961, the Government of Cuba provided for a currency conversion to be carried out on August 6 and 7, 1961. After that exchange old currency was of no value. (See the Claim of Betty G. Boyle, Claim No. CU-3473.) Accordingly, the Commission finds that the asserted \$25,000.00 became valueless pursuant to the provisions of Cuban Law 963 of August 4, 1961, and affirms the denial of this part of the claim.

Decedent's losses on his one-half interests, are now summarized as follows:

<u>Items</u>	<u>Date of Loss</u>	<u>Amount</u>
Debt	September 28, 1960	\$7,500
Home	October 11, 1961	9,000
Home & Office Furnishings	October 11, 1961	3,825
Stock Inventory	October 11, 1961	9,750
Accounts Receivable	October 11, 1961	<u>7,095</u>
		\$37,170

The Commission affirms its holding that interest shall be included as part of the Certification of Loss, and accordingly, interest shall be included as follows:

<u>FROM</u>	<u>ON</u>
September 28, 1960	\$ 7,500
October 11, 1961	<u>29,670</u>
	\$37,170


The Certification of Loss in the Proposed Decision is set aside, the following Certification of Loss will be entered, and in all other respects the Proposed Decision as amended herein is affirmed.

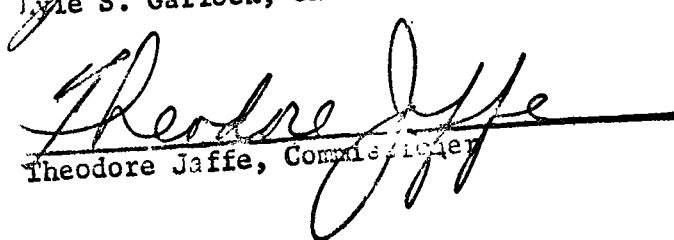
CERTIFICATION OF LOSS

The Commission certifies that the ESTATE OF JOHN CARAN, DECEASED, suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-Seven Thousand One Hundred Seventy Dollars (\$37,170.00) with interest at 6% per annum from the aforesaid dates to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Final  
Decision of the Commission

**OCT 20 1971**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOHN CARAN for \$103,860.00 based upon the asserted ownership and loss of certain real and personal property in Cuba. On November 17, 1969 counsel advised that JOHN CARAN had died intestate. Subsequently he advised that there would be no administration because the estate had no assets. Decedent had been a national of the United States since his naturalization in 1949.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Decedent's loss has been described as follows:

Improved realty in Las Villas	\$ 20,000.00
Household furnishings	8,670.00
Office furnishings	1,500.00
Inventory of stock	19,500.00
Accounts receivable	14,190.00
Unsecured promissory note	15,000.00
Cash	25,000.00
	<u>\$103,860.00</u>

The decedent was doing business in Cuba under the name "Juan Caran Commisionista", carrying on a dry goods business, dealing principally in ladies' and men's hosiery.

The record contains a report from abroad, affidavits of decedent and his wife and son, and a number of affidavits from individuals including decedent's business accountant and supplier, with personal knowledge of the facts.

Based upon the evidence of record the Commission finds that decedent and his wife, Amelia D. Caran, an alien until 1966, each owned a one-half interest in many of the items subject of this claim, further discussed below. Since decedent's wife was not a United States national on the date of loss, so much of this claim as is based on her interest is hereby denied.

Decedent's wife has certified that three days before she left Cuba on October 14, 1961 she was forced to surrender all their property in order to be permitted to leave. Her husband had left on July 14, 1961 intending to return. Based on the entire record the Commission finds that on October 11, 1961 the Cuban Government confiscated the home and household furnishings located at Manzana A #8, Reparto Pujol, Placetas, Las Villas as well as the office furnishings and inventory of stock located at the same address.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant,

including but not limited to fair market value, book value, going concern value, or cost of replacement.

The record includes in support of the claimed values, the report from abroad with regard to the home, and the aforementioned affidavits from individuals who include his business accountant, a former businessman in Havana who describes decedent as among the most important customers purchasing about \$10,000 worth of merchandise monthly, and the former owner of the store who sold decedent furniture and household furnishings for his home in the total amount of about \$4,275.00.

#### Residence and Furnishings

Decedent's house is described as consisting of about 10 rooms constructed of concrete and brick in January, 1956 on a lot 50 feet by 150 feet. Decedent had certified that he purchased the lot in 1955 for about \$1,300 and that his home including the construction of an 8 foot brick wall which surrounded the backyard cost over \$16,000. He also stated that part of the house was reserved for his business which included his office and warehouse. The record also includes three photographs.

Based on the evidence of record the Commission finds that the value of decedent's house on the date of loss was \$18,000, and that the total value of his household and office furnishings, appliances and equipment, after appropriate depreciation, was \$7,650.

#### Inventory of Store

Decedent certified that his stock consisted of about 2000 dozen ladies' hosiery and 1500 dozen men's and girls' socks valued at \$19,500. Decedent's business accountant certifies that the value of this merchandise always exceeded \$20,000, and the value of \$20,000 is asserted by other affiants in the record. The Commission finds that the value of this merchandise on October 11, 1961, the date of loss, was \$19,500.

#### Accounts Receivable

Decedent certified that his business had accounts receivable of about \$14,190, and he listed twelve of his Cuban debtors with the approximate amount of their debts which account for all but \$5,000 of this sum. His

accountant certifies that his accounts receivable were at least \$20,000, and this statement is supported by the other affiants including the former owner of American Hosiery Mills who states that decedent's records of receivables were made available to him because of the revolving account method by which decedent conducted his business. The record includes no evidence or information regarding the dates the accounts receivable were due. However, his widow avers the accounts were unpaid principally because of confiscation of the debtors by the Government of Cuba.

Accordingly, in the absence of evidence to the contrary, the Commission finds that the loss in this connection was sustained on November 11, 1961, that the Accounts Receivable aggregated \$14,190 and that decedent had suffered a loss in the amount of \$7,095 for his one-half interest therein.

Promissory Note and Cash

With regard to the items of this claim based on the loss of cash in the amount of \$25,000 and of an unsecured promissory note in the amount of \$15,000, the Commission finds that there is insufficient evidence to support either item and these portions of the claim are therefore denied for failure of proof.

Recapitulation

Decedent's losses based on his one-half interest in the items of his claim are summarized as follows:

<u>Items</u>	<u>Date of Loss</u>	<u>Value</u>	<u>Amount</u>
Home	October 11, 1961	\$18,000	\$ 9,000
Home & Office Furnishings	October 11, 1961	7,650	3,825
Stock Inventory	October 11, 1961	19,500	9,750
Accounts Receivable	October 11, 1961	14,190	7,095
			<u>\$29,670</u>

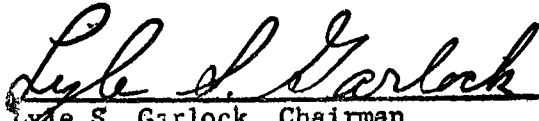
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

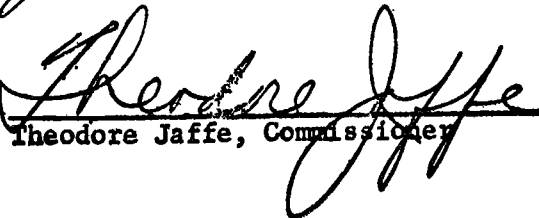
CERTIFICATION OF LOSS

The Commission certifies that the ESTATE OF JOHN CARAN, DECEASED, suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-nine Thousand Six Hundred Seventy Dollars (\$29,670.00) with interest at 6% per annum from October 11, 1961 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

APR 7 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)